

[7/21/2014 version for Board consideration 7/30/14; with board changes from 7/30/2014]

4 AAC 33 is amended by adding new sections to read:

Article 6. Funding for the Improvement of Internet Speed at Public Schools.

Section

- 600. Purpose
- 605. Application
- 610. Application deadline for fiscal year 2015
- 620. Funding calculation
- 630. Eligible costs
- 640. Notice of funding
- 645. Notice of funding for fiscal year 2015
- 650. Distribution of funding
- 655. Distribution of funding for fiscal year 2015
- 660. Report of current Internet speed
- 665. Year-end report
- 670. Return of unexpended funds
- 675. Program Audit
- 680. Nonpayment, required refund, or future denial
- 685. Filing or submission date
- 690. Definitions

4 AAC 33.600. Purpose. The purpose of 4 AAC 33.600 - 4 AAC 33.690 is to establish a process of determining eligibility for and distribution of payments under AS 14.03.127

(Funding for Internet services), subject to the availability of appropriations. (Eff.

___/___/___, Register ___)

Authority: AS 14.03.127 AS 14.07.020 AS 14.07.060

4 AAC 33.605. Application. (a) A district in which one or more schools qualify for a discounted rate for Internet services under 47 U.S.C. 254 (federal universal service program) may apply to the department for funding under AS 14.03.127 to increase the download speed of the Internet to 10 Megabits per second (Mbps) for a circuit or connection that is accessible to student Internet users at a school operated by the district.

(b) Each year, not later than the deadline for an applicant to the federal universal service program to file the Federal Communications Commission Form 471 (Description of Services Ordered and Certification Form) under 47 C.F.R. 54.504, a district seeking funding under AS 14.03.127 shall file with the department on a form provided by the department a complete application for funding under AS 14.03.127 for the following fiscal year.

(c) An application shall be filed electronically with the department according to application instructions available on the department's website,

<http://www.education.alaska.gov>.(d) An application must be signed by the superintendent of the applicant.

(e) An applicant shall provide information in the application regarding Internet services available for use by the students of the district, including

(1) a list of each circuit or connection that serves a school operated by the district and provides Internet access for students at an initial negotiated capacity of less than 10 Mbps;

(2) the Internet speed measured in Mbps of download for each circuit or connection listed under paragraph 1, verified in writing by the Internet service provider for the district;

(3) the current cost and the applicant's share of the current cost for each Internet circuit or connection listed under paragraph 1 in monthly, recurring charges to the district, with the current cost verified in writing by the Internet service provider for the district; and

(4) the total cost and the applicant's share of the total cost in monthly, recurring charges for increasing the Internet speed to 10 Mbps of download at each Internet circuit or connection listed under paragraph 1, with the total cost verified in writing by an Internet service provider qualified under the universal service program;

(f) An applicant shall provide information in the application regarding the district's filings with the universal service program and the district's eligibility for the universal service program for the fiscal year for which funding is sought, including

(1) Federal Communications Commission Form 470 (Description of Services Requested and Certification Form) filed by the applicant with the Universal Service Administrative Company;

(2) Federal Communications Commission Form 471 (Description of Services Ordered and Certification Form) filed by the applicant with the Universal Service Administrative Company; and

(3) a fully-executed contract for Internet services for the fiscal year for which funding is sought that complies with all requirements of the universal service program.

(g) An applicant shall provide other information in the application to the department as needed for the department to determine eligibility and calculate funding under AS 14.03.127.

(h) An applicant shall provide in the application an email address and the name of the contact person for the applicant to be used for notifications and other communication from the department to the district regarding funding under AS 14.03.127. (Eff. ____/____/____, Register ____)

Authority: AS 14.03.127 AS 14.07.020 AS 14.07.060

* Editor's note: Information regarding the Federal Communications Commission filing deadlines is available on the website of the Universal Service Administrative Company at <http://www.usac.org/sl> or by telephone toll-free at 1-888-203-8100.

4 AAC 33.610. Application deadline for fiscal year 2015. Notwithstanding 4 AAC 33.605(b), not later than December 1, 2014, a district seeking funding under AS 14.03.127 for fiscal year 2015 shall file with the department on a form provided by the department a complete application for funding under AS 14.03.127. (Eff. ____/____/____, Register ____)

Authority: AS 14.03.127 AS 14.07.020 AS 14.07.060

4 AAC 33.620. Funding calculation. (a) A district is eligible for funding under AS 14.03.127 to increase the amount that the district shall contribute to the cost of Internet service; i.e., the "applicant's share," as a successful applicant in the federal universal service program, so that funding will be sufficient to provide an Internet download speed of at least 10 Mbps for student Internet users in the district.

(b) A district is eligible for a pro rata share of the available funding under AS 14.03.127

based on a calculation that takes into account

(1) the number of Internet circuits or connections that serve a school in the district that

(A) provide Internet access for student users; and

(B) operate at an initial negotiated capacity of less than 10 Mbps; and

(2) the applicant's share of the cost of increasing the initial negotiated capacity to 10 Mbps for each circuit or connection under (b)(1).

(c) A district may not calculate the negotiated capacity of an eligible circuit under (b)(1) by dividing the total speed of a connection by the number of circuits served by the connection.

(d) The department shall calculate a district's need under AS 14.03.127 by multiplying the eligible circuits or connections under (b)(1) by the applicant's share of the cost of increasing the initial negotiated capacity under (b)(2) to 10 Mbps for each connection.

(e) The department shall calculate the total need for all eligible applicants under AS 14.03.127 by combining the verified need of all eligible applicants under AS 14.03.127.

(f) An eligible district qualifying for funding under AS 14.03.127 may receive a proportionate share of the total funding need under AS 14.03.127.

(g) The department shall calculate a district's proportionate share as a ratio with a district's need in the numerator and the total funding need for all district applicants under AS 14.03.127 in the denominator. That ratio shall then be applied to the available funding under AS 14.03.127 to determine the funding for which a district is eligible under AS 14.03.127. (Eff. ____/____/____, Register ____)

Authority: AS 14.03.127 AS 14.07.020 AS 14.07.060

4 AAC 33.630. Eligible costs. A district shall include only monthly, recurring costs for eligible circuits or connections in its calculation of current Internet service cost and the projected cost of increasing the eligible circuit or connection speed to 10 Mbps under 4 AAC 33.605. (Eff. ____/____/____, Register ____)

Authority: AS 14.03.127 AS 14.07.020 AS 14.07.060

4 AAC 33.640. Notice of funding. The department shall notify an applicant of its eligibility for funding and the amount of the available funding under AS 14.03.127 not later than May 15 of each year. If an applicant has provided an email address to be used for communications under AS 14.03.127, the department may notify the applicant of its eligibility and funding under this section by email. This notice shall be considered a final action for purposes of appeal under 4 AAC 40. (Eff. ____/____/____, Register ____)

Authority: AS 14.03.127 AS 14.07.020 AS 14.07.060

4 AAC 33.645. Notice of funding for fiscal year 2015. Notwithstanding 4 AAC 33.640, the department shall notify an applicant of its eligibility for funding and the amount of the available funding under AS 14.03.127 for fiscal year 2015 not later than January 30, 2015. The funding may be used to reimburse eligible costs incurred by the district in fiscal year 2015 prior to receipt of the funding. If an applicant has provided an email address to be used for communications under AS 14.03.127, the department may notify the applicant of its eligibility and funding under this section by email. This notice shall be considered a final action for purposes of appeal under 4 AAC 40. (Eff. ____/____/____, Register ____)

Authority: AS 14.03.127 AS 14.07.020 AS 14.07.060

4 AAC 33.650. Distribution of funding. The department shall distribute funding under AS 14.03.127 to districts not later than August 15 of each year. A district shall use funding distributed under AS 14.03.127 to pay for Internet service for circuits or connections that are accessible to students. If a district files an appeal under 4 AAC 40 and in the final resolution of that appeal is accorded an increased allocation for funding under AS 14.03.127, payment pursuant to the final decision shall be provided from the following year's appropriation, if any, under AS 14.03.127. (Eff. ____/____/____, Register ____)

Authority: AS 14.03.127 AS 14.07.020 AS 14.07.060

4 AAC 33.655. Distribution of funding for fiscal year 2015. Notwithstanding 4 AAC 33.650, the department shall distribute funding under AS 14.03.127 for fiscal year 2015 to districts not later than March 15, 2015. (Eff. ____/____/____, Register ____)

Authority: AS 14.03.127 AS 14.07.020 AS 14.07.060

4 AAC 33.660. Report of current Internet speed. (a) A district shall provide as the current Internet speed in its application under 4 AAC 33.605 the initial negotiated capacity for each eligible circuit or connection.

(b) The department will calculate a district's need under 4 AAC 33.620 using the initial negotiated capacity, so an increase in Internet speed funded under AS 14.03.127 may be maintained in subsequent years. (Eff. ____/____/____, Register ____)

Authority: AS 14.03.127 AS 14.07.020 AS 14.07.060

4 AAC 33.665. Year-end report. (a) By April 15 of the fiscal year that a district receives funding under AS 14.03.127, a district shall file a year-end report with the department on a form provided by the department. The recipient shall report

(1) the total of paid invoices for Internet circuits or connections that serve student users for the current fiscal year, including the applicant's share and the total cost;

(2) anticipated costs, including the applicant's share and the total cost for Internet circuits or connections that serve student users for the remainder of the fiscal year; and

(3) the negotiated capacity in Mbps for each circuit or connection listed in the district's application under 4 AAC 33.605 as reported by the Internet service provider at the time of the most recent invoice.

(b) A district that fails to submit a timely year-end report may not be eligible to receive funding under AS 14.03.127 for the following school year.

(c) A district shall file a year-end report with the department electronically according to instructions available on the website for the department, <http://education.alaska.gov/>. (Eff. ____/____/____, Register ____)

Authority: AS 14.03.127 AS 14.07.020 AS 14.07.060

4 AAC 33.670. Return of unexpended funds. By August 30 of each year, a district shall return to the department funds received under AS 14.03.127 unexpended for eligible costs for Internet services during the prior fiscal year. (Eff. ____/____/____, Register ____)

Authority: AS 14.03.127 AS 14.07.020 AS 14.07.060

4 AAC 33.675. Program audit. The department may conduct an audit of a district's

compliance with AS 14.03.127 and 4 AAC 33.600 - 4 AAC 33.690 at any time. A district that applies for funding under AS 14.03.127 shall retain all records related to its application and funding under AS 14.03.127 and under the universal service program for any year as to which the district has applied for funding under AS 14.03.127. A district shall retain the records for ten years after the end of the fiscal year in which funding under AS 14.03.127 is received. A district receiving funding under AS 14.03.127 shall provide the department with the requested records within 15 calendar days of receipt of the written request of the department. (Eff.

____/____/____, Register ____)

Authority: AS 14.03.127 AS 14.07.020 AS 14.07.060

4 AAC 33.680. Nonpayment, required refund, or future denial. If the department determines that a district is not in compliance with AS 14.03.127 and 4 AAC 33.600 - 4 AAC 33.690 or the requirements for successful participation in the universal service program, the department may withhold payment under AS 14.03.127, require reimbursement of prior payments, or deny future funding under AS 14.03.127. (Eff. ____/____/____, Register ____)

Authority: AS 14.03.127 AS 14.07.020 AS 14.07.060

4 AAC 33.685. Filing or submission date. (a) An application, year-end report, or other filings or submissions to the department under AS 14.03.127 will be considered filed or submitted as of the postmark date of the document. If the document is submitted by a method that does not provide a postmark date, the document will be considered filed or submitted as of the date stamped or otherwise marked on the document when it is received at the department's office. An electronic filing or submission, if allowed, will be considered filed or submitted at the

time the filing or submission is received in electronic form by the department.

(b) For the purposes of this section, "postmark date" means the date of mailing stamped or otherwise marked by the United States Postal Service or a private delivery service on a document with prepaid postage and correctly addressed to the department's office. (Eff.

___/___/___, Register ___)

Authority: AS 14.03.127 AS 14.07.020 AS 14.07.060

4 AAC 33.690. Definitions. (a) In AS 14.03.127 and 4 AAC 33.600 - 4 AAC 33.690, unless the context requires otherwise,

(1) "department" means the Department of Education and Early Development;

(2) "district" means a borough or city school district, a regional educational attendance area, and a state boarding school;

(3) "fiscal year" means the fiscal year calculated under state law; for example, fiscal year 2015 runs from July 1, 2014, to June 30, 2015.

(b) In 4 AAC 33.600 - 4 AAC 33.690, unless the context requires otherwise,

(1) "applicant's share" has the meaning given in AS 14.03.127(c)(1) ;

(2) "circuit or connection" means a mode of access to the Internet, whether a direct connection or via a circuit through a wide-area network (WAN); in this paragraph, "wide area network" means a voice, data, or video network that provides connections from within an school to other locations beyond the school;

(3) "commissioner" means the commissioner of education and early development;

(4) "initial negotiated capacity" means the Internet speed for an eligible circuit or

connection that a district reports on FCC Form 471(Description of Services Ordered and Certification Form) filed with the Universal Service Administrative Company under the universal service program for

(A) fiscal year 2015; or

(B) the first year the district applies under both the universal service program and AS 14.03.127, whichever date is later;

(5) "Mbps" means Megabit per second of Internet download speed;

(6) "universal services program" has the meaning given in AS 14.03.127(c)(2).

(Eff. ____/____/____, Register ____)

Authority: AS 14.03.126 AS 14.07.020 AS 14.07.060